WP(C) 6060/2007

BEFORE

HON'BLE MR. JUSTICE RANJAN GOGOI

Heard Mr. A. S. Choudhury, learned Senior Counsel appearing for the petitioner a nd Mr. B. J. Ghosh, learned Govt. Advocate, Assam.

As agreed to by the learned counsels for both sides and as full records have bee n placed before the Court the writ petition is being disposed of at the motion s tage.

The challenge in the writ petition is against an order dated 26th June 2007 pass ed by the Joint Secretary to the Govt. of Assam, Environment and Forest Departme nt. By the aforesaid order the petitioner who is a Forest Ranger and was posted as in-charge of Udharbond Forest Range has been placed under suspension pending drawal of departmental proceeding.

A reading of the impugned order of suspension would go to show that the said act ion against the petitioner has been taken on a charge of gross indiscipline and misbehaviour as evident from the three reports referred to in the said order dat ed 26.6.2007. Of the three reports, which have been placed before the Court the report dated 16.6.2007 of the Conservator of Forest, Southern Assam Circle, Silc har alone contains the relevant facts on which the allegation of gross indiscipl ine and misbehaviour is founded. The other two reports dated 19.6.2007 and 22.6. 2007 only forwards the aforesaid third report dated 16.6.2007 to the higher auth ority.

A reading of the report dated 16.6.2007 of the Conservator of Forest, Southern A ssam Circle, would go to show that in connection in connection with certain off icial matters the Conservator had called the writ petitioner to his office on 16 .6.2007. The writ petitioner came to the office of the Conservator at about 2.15 P.M. improperly dressed and after some discussions started using abusive langua ge towards his superior. As the petitioner persisted in his objectionable behavi our, the Conservator called his office to staff to escort the petitioner out of his office. In the report dated 16.6.2007 it is further mentioned that at this s tage the petitioner used filthy language to the staff summoned by the Conservato r and physically tried to assault them. In such circumstances, the matter was re ported to the Chief Conservator of Forest (Territorial) by the report dated 16.6 .2007. Thereafter, the Chief Conservator of Forest, Territorial, by communicatio n dated 19.6.2007 enclosed the said report/communication dated 16.6.2007 to the Principal Chief Conservator of Forest who in turn forwarded the same to the Comm issioner and Secretary to the Govt. of Assam, Environment and Forest by letter d ated 22.6.2007. Thereafter the impugned order dated 26.6.2007 has been passed.

The materials on record further discloses that in respect of the same incident a F.I.R. was lodged with the Sadar Police Station, Silchar by one Indranil Paul C houdhury, Upper Division Assistant in the office of the Conservator of Forest, S outhern Assam Circle. On the basis of the aforesaid F.I.R. Silchar P.S. Case No. 1052/2007 was registered. The allegations mentioned in the F.I.R., it must be no ticed, are in sum and substance similar to those mentioned in the report of the Conservator of Forest, Southern Assam Circle dated 16.6.2007.

The materials available on record further goes to show that Silchar P.S. Case No .1052/2007 was duly investigated and on completion of investigation final report was submitted to the effect that though some minor injuries were caused to the office staff of the office of the Conservator of Forest, Southern Assam Circle t he said injuries had occurred on account of the pushing of a table by the accuse d i.e. the writ petitioner and that such investigation did not conclusively esta blish that the petitioner had in any way manhandled, abused or assaulted any mem ber of the staff.

The Court has noticed that the impugned order of suspension dated 26.6.2007 has been passed pending drawal of departmental proceeding. It is admitted by the lea rned Govt. Advocate that till date no departmental proceeding has been drawn up against the petitioner though the draft charges are stated to be ready. In the a bove situation, as on date, the allegations against the petitioner contained in the report dated 16.6.2007 of the Conservator of Forest, Southern Assam Circle, on the basis of which the petitioner has been placed under suspension has not b

een proved. If and when a departmental proceeding is initiated against the petitioner on the same charges, the same will have to proceed as the standard of proof that would be required in the departmental proceeding would be much lower than in the criminal case. However, the said departmental proceeding is yet to commence. The petitioner has been under suspension for nearly six months now. In the above situation, I am of the view that further continuance of the suspension of the petitioner will not be justified. The Court, therefore, is of the view that the order dated 26.6.2007 placing the petitioner under suspension should receive its interference but at the same time the department should be permitted to initiate a departmental proceeding, if so advised, and to bring the same to an early conclusion.

Consequently and in the light of the above the order dated 26.6.2007 is set aside with liberty to the department to initiate and finalise a departmental proceeding against the petitioner, if the department is so inclined.

Writ petition, consequently, is allowed as indicated above.

The records placed before the Court be returned to the learned Govt. Advocate.